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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,383	12/17/2001	Susan T. Tingey	83171CEB	2412

7590 03/31/2006
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EXAMINER

MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/023,383
Filing Date: December 17, 2001
Appellant(s): TINGEY ET AL.

Paul A. Leipold
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 17, 2006 appealing from the Office action mailed August 26, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hakun et al. (4,653,642). Hakun '642 discloses a package (10) for storing and displaying product, comprising: a product display member having overlapped, closely spaced front and rear layers (front and rear panels 14, 16, see Figure 2 embodiment); a reusable product container and at least one unit of product (inner shell 20 with flange/rim 28 and mask M respectively); and means (transparent outer shell member 22 with flange/rim 28a) for removably attaching said reusable product container to said product display member, said means for removably attaching comprising extended flange portions trapped between said partially overlapped, closely spaced front and rear layers. See Figure 5 embodiment.

With respect to claim 7, note the opening arranged in a top portion of said product display member in Figure 2 embodiment which will facilitate displaying the member.

The inner shell (20) of Hakun '642 can be re-used therefore it can be construed as a reusable product container.

(10) Response to Argument

Contrary to appellant argument the examiner is not referring to the combination of the inner shell (20) and mask (M) as the reusable container. Only the inner shell (20) is referred to as the reusable container and not the combination of the inner shell (20) and the mask (M). Mask (M) is the one unit of product being held by the container. The

mask (M) is not part of the container. The inner shell (20) of Hakun '642 constitutes a container since it is capable of holding the product (mask M) regardless of whether it can contain the mask (M) on its outside or in its inside or both sides and since the inner shell (20) is capable of holding the mask (M) on either of its sides, the inner shell (20) constitutes a container. Since the inner shell (20) can be re-used therefore it can also be construed as a reusable product container.

Appellant further argues that the mask and the rear layer of Hakun'642 are completely separate materials and layers, therefore they are not related in a manner than would let them form a container containing at least one unit of product. The examiner does not dispute this fact, however it is the inner shell (20) that the examiner is construing to be the container and not the combination of the mask and the rear layer.

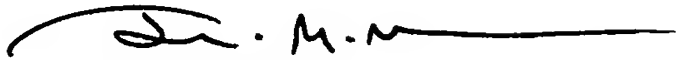
Appellant is arguing more than that which is claimed. The claim only requires a reusable container without any specific structure to the reusable container. Again inasmuch as it has been claimed by applicant, the inner shell (20) of Hakun '642 constitutes a container (one that can contain, regardless of whether it can contain on its outside, inside or both sides).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

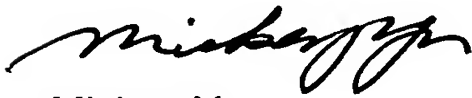
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,




Jila Mohandesi
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Art unit 3728

Conferees:



Mickey Yu
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